

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

The Specification has been amended to correct several spelling and grammatical errors. Applicant respectfully submits that no new matter has been added.

Claims 1, 11, and 12 are currently being amended so as to incorporate claim 4. Claim 4 has been cancelled. Claim 10 has been amended to correct a grammatical error, specifically the incorrect spelling of “threshold.” **Accordingly, no new search is required.**

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with appropriate, defined status identifiers. With the entry of the amendments to the claims as set forth above, claims 1-3, 5-17 are pending in this application.

**Rejections Under 35 U.S.C. § 112**

Claims 1 and 12 were rejected for insufficient antecedent basis of “drive means” used in the claims. Applicant has amended “drive means” to include “electrical drive means” in claims 1 and 12. As such, Applicant believes claims 1 and 12 now have sufficient antecedent basis. Applicant respectfully requests withdrawal of the rejection.

**Rejections Under 35 U.S.C. § 102**

Claims 1-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent EP 0973138 (Suuronen). Applicant has amended claims 1, 11, and 12, rendering this rejection moot with respect to all claims but claim 4. Applicant respectfully traverses the rejection as applied to claim 4. Claim 4 has been incorporated into claims 1, 11, and 12 and then claim 4 was cancelled.

After incorporating claim 4, claim 1 now includes: “control means include means for stopping the movable means in such a position that makes it possible for it to move when the portable telecommunication device is moved.” Applicant respectfully submits that Suuronen fails to teach, suggest, or describe at least this element.

Suuronen does not anticipate at least this element of claim 1. Suuronen teaches that “when the electric motor is not rotating the axle, the axle and its eccentric mass move freely under the influence of external forces exerted on the mass.” (paragraph 0012). No where in Suuronen is an explicit reference made to any type of braking or stopping being applied to the axle, eccentric mass, or any other possible movable means. Suuronen contradicts and teaches away from claim 1 because instead of teaching the application of a braking force to a movable means, Suuronen teaches free movement of the axle and eccentric mass and fails to teach any type of means for stopping or braking the axle or eccentric mass.

In paragraph 0028 of the present application, one embodiment of the claimed control means is described as “a separate switch short circuiting the vibrator device in order to generate a braking effect.” The only forces that would slow or brake the axle or eccentric mass in Suuronen are inherent external forces such as gravity or the friction associated with the movement and action of the motor or movable means itself. Suuronen certainly does not teach a control means by which such a stopping force is controlled and exerted. As such, Suuronen does not anticipate claim 1.

Claim 11 has also been amended to incorporate features of claim 4. As such, claim 11 now includes: “control means including means for stopping the movable means in such a position that makes it possible for the movable means to move when the portable telecommunication device is moved.” As mentioned above, Suuronen teaches that “when the electric motor is not rotating the axle, the axle and its eccentric mass move freely under the influence of external forces exerted on the mass.” (paragraph 0012). No where in Suuronen is an explicit reference made to any type of braking or stopping being applied to the axle, eccentric mass, or any other possible movable means. Suuronen certainly does not teach a control means by which such a stopping force is controlled and exerted.

Claim 12 has also been amended to incorporate an element of claim 4. As such, claim 12 now includes: “the controller including means for stopping the movable means in such a position that makes it possible for it to move when the portable telecommunication device is moved.” For at least the reasons given above with regard to claims 1 and 11, Suuronen does not anticipate claim 12 either.

In addition to independent claims 1, 11, and 12 being patentable over Suuronen, there are dependent claims which are additionally patentable. For example, claim 5 includes “controls means includes means for stopping the movement of the movable means before the portable telecommunication device is switched to a induced electrical signal operation.” Again, Suuronen fails to teach such an element, specifically “control means” that aid in stopping the movement of the movable means. Suuronen teaches the free movement of the axle and eccentric mass and fails to teach, suggest, or describe means for stopping the movement of the axle or eccentric mass prior to switching the device to “a induced electrical signal operation” as in claim 5.

Claims 9 and 14 indicate that the electromechanical actuator is a linear actuator provided with coil means and a moving core. The Examiner states that Suuronen “teaches where the electromechanical actuator is a linear electric actuator . . . (paragraph 18, “inducing a small electric current in the windings of the electric motor”). Paragraph 18 of Suuronen refers to a rotating electric motor or electromechanical actuator. Paragraph 18 refers to the same rotating electrical motor as paragraph 12, (“As the electric motor rotates, the eccentricity of the mass causes [the vibration]”). As such, Suuronen fails to anticipate at least this element of claims 9 and 14.

Claims 2-3, 5-10, and 13-17 additionally depend from allowable independent claims. As such, Applicant respectfully submits that claims 2-3, 5-10, and 13-17 are also in condition for allowance.

An anticipation rejection cannot be properly maintained if the cited reference does not show each and every limitation of the rejected claim. For at least the foregoing reasons, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date September 26, 2008

By 

FOLEY & LARDNER LLP  
Customer Number: 23524  
Telephone: (608) 258-4292  
Facsimile: (608) 258-4258

Paul S. Hunter  
Attorney for Applicant  
Registration No. 44,787